



IT IS ORDERED

Date Entered on Docket: December 3, 2012

**The Honorable Robert H Jacobvitz
United States Bankruptcy Judge**

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

In re:

BRENT WESTMORELAND

Debtor,

No. 7-11-13284 JL

DEFAULT ORDER ON MOTION TO COMPEL TRUSTEE TO ABANDON ASSET

THIS MATTER, having come before the Court on the Motion to Compel Trustee to Abandon Asset, filed by Debtor, Brent Westmoreland (hereinafter "Debtor"), by and through his counsel, and Creditor, Alice Westmoreland (hereinafter "Creditor"), by and through her attorney of record, The Law Offices of Ron Holmes (Ron Holmes), moved this Court for an Order Compelling Trustee to Abandon Asset. The Court being sufficiently advised in the premises FINDS:

1. Debtor filed his Chapter 7 bankruptcy on July 20, 2011.
2. Notice of the deadline to object to the joint Motion was filed and served on October 17, 2012 to all parties in interest on the Court's mailing matrix.
3. No objections or other responsive pleadings have been filed.
4. Creditor is the Debtor's ex-spouse and filed a underlying adversary against Debtor requesting that her debt be deemed nondischargeable under cause number 11-01179-J.
5. The Stipulation between Creditor and Debtor is well taken and should be approved.
6. The Debtor will stipulate to a Judgment for a Domestic Support Obligation against him in the amount of \$100,000 pursuant to 11 U.S.C. §523(a)(5).
7. The Debtor stipulates that the Judgment would be entitled to priority treatment pursuant to 11 U.S.C. §507(a)(1)(A).
8. In his bankruptcy schedules, the Debtor listed an interest in a certain Real Estate Contract with Lydia Zamora to Creditor (the "Zamora Contract"). The Zamora Contract was listed in Debtor's Schedule B, Line 16 and Schedule G. The Debtor partially exempted the Zamora Contract in Schedule C.
9. In full satisfaction of the claim, Debtor has agreed to assign his interest in the Zamora Contract to Creditor. The Zamora Contract would be assigned immediately upon this Court entering its Order approving this Settlement.
10. Debtor will be entitled to retain all payments collected on the Zamora Contract since the filing of the petition through the date of assignment to Creditor. The payments will be considered offsets against the Debtor's claimed exemption.
11. This settlement required the Chapter 7 Trustee to abandon any claim to the

Zamora Contract on behalf of the bankruptcy estate. Creditor's Judgment against debtor will be afforded priority treatment thus making the Zamora Contract an asset of inconsequential value and benefit to the estate since its value is significantly less than the amount of the Domestic Support Obligation Judgment that would be entered against the Debtor as a result of this compromise. Therefore, the contract should be abandoned by the trustee.

12. Upon assignment of the Zamora Contract to Creditor, the Judgment against Debtor will be considered satisfied in full regardless of any future default on the Zamora Contract by Zamora.

13. The parties have reached this Compromise after considering the cost, risk, and uncertainty of litigation.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the compromise between Creditor and Debtor is hereby approved.

IT IS FURTHER ORDERED, that Creditor will have a priority claim against Debtor in the amount of \$100,000.00 under 11 U.S.C. §523(a)(5).

IT IS FURTHER ORDERED, that Debtor will immediately assign his interest in the Zamora Contract upon entry of this Order.

IT IS FURTHER ORDERED, that the Zamora contract is deemed to have been abandoned by the Chapter 7 trustee and is no longer property of the estate.

IT IS SO ORDERED.

END OF DOCUMENT

Respectfully Submitted,

/s/R. "Trey" Arvizu, III 11/28/12
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and

LAW OFFICES OF RON HOLMES

Approved via email on 11/27/12

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